

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Delbert E. Day et al.

Art Unit 1615

Serial No. 10/777,295

Filed February 12, 2004

Confirmation No. 5755

For CALCIUM PHOSPHATE BODIES AND A PROCESS FOR MAKING CALCIUM
PHOSPHATE BODIES

Examiner Sharon E. Kennedy

September 20, 2007

LETTER TO U.S. PATENT AND TRADEMARK OFFICE

TO THE COMMISSIONER FOR PATENTS,

SIR:

This letter is in response to the Office action mailed August 20, 2007, in which an election of a Group of claims for prosecution on the merits was requested.

Reconsideration is requested of the restriction of the claims to the following inventions: Group I (claims 1-7 and 55-57), Group II (claims 8-26), Group III (claims 27-31), Group IV (claims 32-50), Group V (claims 51-52), and Group VI (claims 53-54). According to 35 U.S.C. §121, a restriction is proper only if there are at least two independent and distinct inventions. Furthermore, "[i]f the search and examination of an entire application can be made **without serious burden**, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."¹

In this case, the restriction of the claims is not proper. It is noted that the claims from Groups I and II are classified in the same class (423) and the same subclass (308). Thus, the examination of the claims of these two groups can be made without serious burden.

Subject to the foregoing traverse, the invention defined by the Group I claims (claims 1-7 and 55-57) is elected.

¹ MPEP § 803 (emphasis added)